

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**GABRIELLE GARCIA,**  
**Petitioner**

**v.**

**UNITED STATES OF AMERICA,**  
**Respondent**

:  
:  
:  
:  
:  
:  
:  
:

**5:02-CR-60 (WDO)**

**ORDER**

This matter is before the Court on Petitioner's motion for a free copy of the record based on his intent to file a habeas petition. Because Petitioner has not yet filed a habeas action, and thus has not had a judge determine whether the same is frivolous or with arguable merit, his Motion For Transcripts and Record Proper is DENIED. See Skinner v. United States, 434 F.2d 1036 (5<sup>th</sup> Cir. 1970) ("where a federal prisoner has not attempted to file a petition collaterally attacking his conviction, he is not entitled to obtain copies of court records at the government's expense under 28 U.S.C. 2255 to search the record for possible error"); Hansen v. United States, 956 F.2d 245, 248 (11<sup>th</sup> Cir. 1992) ("a prisoner is entitled to access to the court files only after he has made a showing that such files are necessary to the resolution of an issue or issues he has presented in a non-frivolous pending collateral proceeding"). Petitioner may contact the Clerk of Court regarding the costs for copying the documents he needs.

Petitioner also filed a motion to proceed *in forma pauperis* on his habeas matter. Because the habeas petition is a continuation of the original criminal matter, new filing fees are unnecessary and the motion to proceed IFP is denied as moot.

**SO ORDERED this 14<sup>th</sup> day of March, 2007.**

**S/  
WILBUR D. OWENS, JR.  
UNITED STATES DISTRICT JUDGE**